

REMARKS

I. Status of the Application

Claim 1-12, 14-20, 23-41, 43-50, 52 and 53 are pending. With this amendment, Applicants have amended claims 1, 18-19, 24, 34, 43, 45, and 49-50. The amendments to the claims are supported by the application as filed. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Regarding the Examiner's note regarding intended use, the claims that use the term operative couple that term with an action and that term is preceded with a device or system. In this respect, the device or system, whether the video server, the AMS, the ADS, etc., has the claimed functionality. As such, a device or system that is operative to perform the claimed functionality is actually able to perform that functionality and not merely intending to perform that functionality. Accordingly, Applicants request that the Examiner consider the claim language in its entirety.

II. Claim Rejections

I. 35 USC §101

The Examiner rejects claims 24-32 and 41 under 35 USC §101. Applicants have herewith amended claims 24-32 such that they are now tied to another statutory class. With regard to claim 41, claim 41 is dependent on independent claim 34, which was not rejected under 35 USC §101. Applicants submit that claim 41 is directed to statutory subject matter for the same reason that the examiner deems the subject matter of claim 34 to be directed to statutory subject matter. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

II. 35 USC §103

In the Office Action, under 35 USC §103(a), the Examiner rejects claims 1-12 as being unpatentable over Carlucci (US PgPub 20040103429) in view of Bjorgan (US PgPub 20030066078), Lumley (US Pat 6588013) and Liga (US PgPub

20030154128); claims 24-31 as being unpatentable over Eldering (US PgPub 20020123928) in view of Swix (US Pat 6718551); claim 15 as being unpatentable over Carlucci in view of Lumely, Liga, and Nathaniel (US PgPub 20030130887); claim 16 over Carlucci in view of Lumely, Liga, Nathaniel, and Zimmamia (US PgPub 20020161609); claim 32 as being unpatentable over Eldering in view of Swix and Liga; claim 33 as being unpatentable over Eldering in view of Swix, Bjorgan, and Cowan (US Pat 6941573); and claims 43-50, 52, and 53 as being unpatentable over Eldering, in view of Cowan and Liga.

Independent claim 1 as amended recites: “a reporting system in communication with the video server, the reporting system operable to capture subsequent commands from the user during delivery of the content and determine from the subsequent commands a percentage of the one or more advertisements delivered by the video server to the user.” Applicants submit that the references cited by the Examiner fail to disclose this limitation of claim 1.

Claims 24, 34, and 50 include a similar limitation as that of claim 1 noted above and are therefore patentable over the references cited by the Examiner for at least the same reason.

Claim 43 as amended recites:

electronically receiving multiple zoned copies of a given program, each zoned copy containing proper local advertising for a given zone different than another of the multiple zoned copies;
recording a zoned copy of a given program containing proper local advertising for each zone of the video distribution system services at a video server coupled to a plurality of clients over a network;
...; and
transmitting a zoned copy of the requested program from the video server to the client in response to the client requesting the program.

That is, each of the plurality of zoned copies are recorded at a video server coupled to the client device over a network, which provides the zoned copies to the client in response to the client requesting the recorded program. Applicants submit that the

references cited by the Examiner fail to disclose these limitations of claim 40. The Examiner asserts that Eldering discloses recording multiple copies of a program with reference to para. 0025 and 0085. Applicants disagree. At para. 0025 Eldering notes that one of the subscriber interactions that its system monitors is “recording commands.” These interactions are merely aggregated for Eldering’s targeted advertising. Eldering does not disclose how the recorded program is going to be recorded. Indeed, other than that one recitation of the word “record” Eldering is silent with regard to any recording functionality.

Claim 49 includes a similar limitation as that of claim 43 noted above and is therefore patentable over the references cited by the Examiner for at least the same reason.

The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over the prior art of record. Given the Applicants’ position on the patentability of the independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

III. Conclusion

For at least all the reasons above, Applicants respectfully request the withdrawal of all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the Examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

/ Antonio Papageorgiou/

Dated: March 23, 2011

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY THROUGH
THE PATENT AND TRADEMARK OFFICE EFS
FILING SYSTEM ON March 23, 2011

Antonio Papageorgiou
Reg. No. 53,431
Ostrow Kaufman LLP
555 Fifth Avenue, 19th Floor
New York, NY 10017
212-682-9200 Ph.
212-682-9222 Fx.

Customer No. 61834